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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,766	01/15/2002	Nachiappan Annamalai	ARIBP049	5172

21912 7590 10/18/2007

VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

EXAMINER	
SHRESTHA, BIJENDRA K	

ART UNIT	PAPER NUMBER
3691	

MAIL DATE	DELIVERY MODE
10/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/047,766	ANNAMALAI ET AL.	
	Examiner	Art Unit	
	Bijendra K. Shrestha	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 May 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-32 are presented for examination. Applicant filed an amendment on 07/25/2007 traversing the rejection pursuant to 35 USC 103 (c), as assignee of instant application and reference Gujral et al., is Freemarket, Inc.

The Examiner respectfully withdraws the rejection of all claims based on Gujral et al. After careful consideration of applicant's arguments, new grounds of rejections of the claims are established in the instant application as set forth in detail below. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Information Disclosure Statement

2. The Applicant is respectfully requested to limit number of references relevant to the instant application.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1-7, 9-15, 17-20 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Davenport et al., U.S. Pub No. 2003/0033236 (reference A in attached PTO-892).

5. As per claim 1, Davenport et al. teach a method for multiple award optimization bidding in online auctions (see Fig. 1) comprising:

providing, by the buyer, a price ceiling and a tolerance for a resource; soliciting a plurality of bids from a plurality of suppliers, the bids having a unit price and a quantity (see Fig. 1; paragraph [0036]);

validating the bids if the bids meet a set of rules; generating an optimal solution with the validated bids, the optimal solution having an optimal quantity and an optimal unit price from at least one supplier; comparing the optimal unit price to a compare value; and replacing the compare value with the optimal unit price if the optimal unit price is less than the compare value (see Fig. 3; paragraph [0036] and [0040]).

6. As per claim 2, Davenport et al. teach claim 1 as described above. Davenport et al. teach the method comprising:

rejecting the bids if the bids do not meet the set of rules; and

denying the bids if at least one of an optimal solution cannot be generated and the optimal unit price is not less than the compare value (see paragraph [0066].

7. As per claim 3, Davenport et al. teach claim 1 as described above. Davenport et al. teach the method wherein the validating comprises:

calculating a total cost of each bid; evaluating the quantity of each bid against a quantity of another supplier's bid and the unit price of each bid against a unit price of

another supplier's bid; checking the quantity of each bid against a quantity of a previous bid and the total cost of each bid against a previous total cost (see paragraph [0081] and [0082]);

comparing the unit price for each bid against the price ceiling (see paragraph [0066]); and

rejecting the bid if the bid does not meet the set of rules, the set of rules including the unit price of the bid not being less than the price ceiling, the quantity of the bid not being less than the quantity of a previous bid and the total cost of the bid not being greater than the previous total cost, and the quantity of the bid not being equal to the quantity of at least one other supplier's bid and the unit price of the bid not being equal to the unit price of at least one other supplier's bid (see paragraph [0040]).

8. As per claim 4, Davenport et al. teach claim 1 as described above. Davenport et al. further teach the method wherein the generating comprises:

using non-linear programming to determine a decision variable for each bid; including each bid having the decision variable that matches an optimal parameter in the optimal solution; and calculating the optimal unit price and the optimal quantity from the included bids (see paragraph [0081] and [0082]).

9. As per claim 5, Davenport et al. teach claim 1 as described above. Davenport et al. further teach the method wherein the generating comprises:

minimizing the optimal unit price; and maximizing the optimal quantity (see paragraph [0036], [0081] and [0082]).

10. As per claim 4, Davenport et al. teach claim 1 as described above. Davenport et al. further teach the method wherein the generating comprises:

assigning a decision variable matching the optimal parameter to a bid from a preferred supplier (see Fig. 2; paragraph [0038]; page 6, column 2, claim 1); and

calculating the optimal solution to include the bid from the preferred supplier (see Fig 2 and 3; paragraph [0036]).

11. As per claim 7, Davenport et al. teach claim 1 as described above. Davenport et al. further teach the method wherein the generating comprises:

calculating the optimal solution based upon at least one of a minimum number and maximum number of suppliers chosen by the buyer (see Fig. 2, step 201; paragraph [0073]).

12. As per claim 8, Davenport et al. teach claim 1 as described above. Davenport et al. further teach the method comprising:

notifying the suppliers of the bids in the optimal solution (see Fig. 2, step 204;Paragraph [0038]); and

refreshing a display of the bids with each new bid (see Fig. 2, step 206; paragraph [0039] and [0083]).

13. As per claim 9, Davenport et al. teach claim 8 as described above. Davenport et al. further teach the method wherein the notifying comprises:

displaying a ranked ordering of submitted bids in accordance with the optimal solution (see paragraph [0038] and [0039]; the Examiner interprets feedback to the bidders displays a ranked ordering of the submitted bids).

14. As per claim 10, Davenport et al. teach claim 1 as described above. Davenport et al. further teach the method wherein the soliciting comprises:

identifying at least one of goods and services to be purchased (see paragraph [0004]).

15. As per claim 11, Davenport et al. teach claim 1 as described above. Davenport et al. further teach the method comprising:

notifying the bidders that the bids are not accepted if a total quantity calculated from the quantity from all bids does not meet the tolerance (see paragraph [0038]; the examiner interprets that the feedback is provided to all of the bidders).

16. As per claim 12, Davenport et al. teach claim 1 as described above. Davenport et al. further teach the method comprising:

allowing the buyer to change the tolerance if at least one of the bids are not validated and the optimal solution is not generated (see paragraph [0080]).

17. As per claim 12, Davenport et al. teach claim 1 as described above. Davenport et al. further teach the method comprising wherein the soliciting comprises:

providing a range of values for at least one of the quantity and the unit price (see paragraph [0072]).

18. As per claim 14, Davenport et al. teach claim 1 as described above. Davenport et al. further teach the method wherein the generating comprises:

calculating the optimal solution based on at least one of payment terms, cost, percentage, lead time, discounts and other parameters that are quantifiable as numbers (see paragraph [0048]).

19. As per claim 15, Davenport et al. teach claim 1 as described above. Davenport et al. further teach the method wherein the generating comprises:

determining, as the optimal solution, a lowest overall optimal solution set of bids; and providing the optimal quantity and the optimal unit price, the optimal quantity being a sum of quantities from the solution set of bids and the optimal unit price being an average of the unit prices from the solution set of bids (see paragraph [0081] and [0082]).

20. As per claim 16, Davenport et al. teach a method for multiple award optimization bidding in online auctions comprising:

providing, by the buyer, a price ceiling and a tolerance for a resource; soliciting a plurality of bids from a plurality of suppliers, the bids having a unit price, a quantity, and a total cost (see Fig. 1; paragraph [0036]);

accepting a most recent bid from a bidder (see paragraph [0083];

calculating a total cost for the most recent bid; comparing the unit price for the most recent bid against the price ceiling;

checking the quantity of the most recent bid against a quantity of a previous bid from the bidder and the total cost of the most recent bid against a previous total cost of the bidder; evaluating the quantity of the most recent bid against a quantity of another supplier's bid and the unit price of the most recent bid against a unit price of another supplier's bid; rejecting the bid if at least one of the unit price of the most recent bid is not less than the price ceiling, the quantity of the most recent bid is less than the

quantity of the previous bid from the bidder and the total cost of the most recent bid is greater than the previous total cost of the bidder, and the quantity of the most recent bid is equal to the quantity of current bids from at least one other supplier and the unit price of the most recent bid is equal to the unit price of the current bids from at least one other supplier (see paragraph [0081] and [0082]);

determining a decision variable for the current bids and the most recent bid if the most recent bid is not rejected (see paragraph [0083]);

generating an optimal solution from a lowest overall optimal solution set of the most recent bid that satisfies an objective function and constraints and the current bids that satisfies an objective function and constraints, the optimal solution having an optimal quantity, an optimal unit price and an optimal parameter, the optimal quantity being a sum of quantities from an optimal solution set of bids, the optimal unit price being an average of the unit price from the solution set of bids (see paragraph [0040] and 0048]);

denying the most recent bid if an optimal solution cannot be generated;

comparing the optimal unit price to a compare value (see paragraph [0083]);

evaluating whether the decision variable of the most recent bid matches the optimal parameter; replacing the compare value with the optimal unit price if the optimal unit price is not equal to the compare value and the decision variable of the most recent bid matches the optimal parameter (see paragraph [0081], [0082] and [0083]);

notifying the suppliers, in real time, that the most recent bid is in the optimal solution if the decision variable matches the optimal parameter (see paragraph [0038] and [0039]); and

accepting the most recent bid if the decision variable does not match the optimal parameter (see paragraph [0083]).

21. As per claim 17, Davenport teach a method for bidders to determine an optimal bid comprising:

providing, by the buyer, a price ceiling and a tolerance for a resource; receiving at least one bid from a supplier, the bid having a unit price and a quantity (see Fig. 1; paragraph [0036]);

inputting a value for one of a new unit price and a new quantity; generating an optimal bid using the inputted value; and supplying at least one of a corresponding value necessary to reach the optimal bid and a no feasible solution result (see paragraph [0080]).

22. As per claim 18, Davenport et al. teach claim 17 as described above. Davenport et al. further teach the method wherein the tolerance includes a maximum quantity and a minimum quantity and the supplying comprises:

rejecting the value if at least one of the new unit price is greater than the price ceiling, the new quantity is less than the minimum quantity, and the new quantity is greater than the maximum quantity and requesting a different value(see paragraph [0072],[0083]).

23. As per claim 19, Davenport et al. teach claim 17 as described above. Davenport et al. further teach the method wherein the generating comprises:

using non-linear programming to determine a decision variable that matches an optimal parameter; and calculating one of an optimal unit price and an optimal quantity (see paragraph [0082]).

24. As per claim 20, Davenport et al. teach claim 17 as described above. Davenport et al. further teach the method wherein the generating comprises:

minimizing the corresponding value if the inputted value is a new unit price (see paragraph [0083]; and

maximizing the corresponding value if the inputted value is a new quantity (see paragraph [0072]).

25. As per claim 21, Davenport t al. teach a system for multiple award optimization bidding in online auctions (see Fig. 1) comprising:

database for receiving and storing a price ceiling and a tolerance from a buyer and a plurality of bids from a plurality of suppliers for a resource, the bids having a unit price and a quantity (see Fig. 3, step 300; paragraph [0040]); and

software for validating the bids and generating an optimal solution, the optimal solution having an optimal quantity, an optimal unit price and an optimal parameter (see Fig.3, step 304; paragraph [0036] and [0040]).

26. As per claim 22, Davenport et al. teach claim 21 as described above. Davenport et al. further teach the system wherein

the tolerance comprises a maximum quantity and a minimum quantity (see paragraph [0072]).

27. As per claim 23, Davenport et al. teach claim 21 as described above. Davenport et al. further teach the system wherein

the software compares the optimal unit price to a compare value, and replaces the compare value with the optimal unit price if the optimal unit price is less than the compare value and the optimal parameter matches a constraint (see paragraph [0083]).

28. As per claim 24, Davenport et al. teach claim 21 as described above. Davenport et al. further teach the system wherein

the software calculates a total cost of each bid, compares the unit price for each bid against the price ceiling, checks the quantity of each bid against a quantity of a previous bid and the total cost of each bid against a previous total cost, evaluates the quantity of each bid against a quantity of another supplier's bid and the unit price of each bid against a unit price of another supplier's bid, rejects the bid if the bid does not meet a set of rules that include the unit price of the bid not being less than the price ceiling, the quantity of the bid not being less than the quantity of a previous bid and the total cost of the bid not being greater than the previous total cost, and the quantity of the bid not being equal to the quantity of at least one other supplier's bid and the unit price of the bid not being equal to the unit price of at least one other supplier's bid (see paragraph [0081] and [0082]).

29. As per claim 25, Davenport et al. teach claim 21 as described above. Davenport et al. further teach the system wherein

the software receives a value for one of a new unit price and a new quantity, generates an optimal bid using the value, and supplies at least one of a corresponding value necessary to reach the optimal bid and a no feasible solution result (see paragraph [0080]).

30. As per claim 26, Davenport et al. teach claim 21 as described above. Davenport et al. further teach the system wherein

the optimal quantity is a sum of quantities from an optimal solution set of bids, the optimal unit price is an average of the unit price from the solution set of bids, and the optimal parameter is a decision variable (see paragraph [0081] and [0083]).

31. As per claim 27, Davenport et al. teach a machine readable medium for multiple award optimization bidding in online auctions comprising:

a first machine readable code that receives and stores a price ceiling and a tolerance from a buyer and a plurality of bids from a plurality of suppliers for a resource, the bids having a unit price and a quantity (see Fig. 1;Server; Buyer Private Market Place (100);

a second machine readable code that validates the bids (see Fig. 1; Server (100); Fig. 3; paragraph [0040]); and

a third readable code that generates an optimal solution, the optimal solution having an optimal quantity, an optimal unit price, and an optimal parameter (see Fig. 3, step 304; paragraph [0040]).

32. As per claim 28, Davenport et al. teach claim 27 as described above. Davenport et al. further teach the machine readable medium wherein

the tolerance comprises a minimum quantity and a maximum quantity (see paragraph [0072]).

33. As per claim 29, Davenport et al. teach claim 27 as described above. Davenport et al. further teach the machine readable medium wherein

the optimal solution is generated by minimizing the optimal unit price and number of suppliers and maximizing the optimal quantity (see paragraph [0036], [0072], [0081] and [0082]).

34. As per claim 30, Davenport et al. teach claim 27 as described above. Davenport et al. further teach the machine readable medium wherein

the optimal quantity is a sum of quantities from a combination of bids, the optimal unit price is an average of the unit price from the combination of bids, and the optimal parameter is a decision variable (see paragraph [0082]).

35. As per claim 31, Davenport et al. teach claim 27 as described above. Davenport et al. further teach the machine readable medium wherein

the bids are validated by calculating a total cost of each bid, comparing the unit price for each bid against the price ceiling, checking the quantity of each bid against a quantity of a previous bid and the total cost of each bid against
a previous total cost, evaluating the quantity of each bid against a quantity of another supplier's bid and the unit price of each bid against a unit price of another supplier's bid and rejecting the bid if the bid does not meet the set of rules, including the unit price of

the bid not being less than the price ceiling, the quantity of the bid not being less than the quantity of a previous bid and the total cost of the bid not being greater than the previous total cost, and the quantity of the bid not being equal to the quantity of at least one other supplier's bid and the unit price of the bid not being equal to the unit price of at least one other supplier's bid (see paragraph [0081], [0082] and [0083]).

36. As per claim 30, Davenport et al. teach claim 27 as described above. Davenport et al. further teach the machine readable medium comprising

a fourth readable code that receives a value for one of a new unit price and a new quantity, generates an optimal bid using the value, and supplies at least one of a corresponding value necessary to reach the optimal bid and a no feasible solution result (see paragraph [0080]).

Response to Arguments

37. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. This office action is made **Non-Final.**

Conclusion

38. The prior art made of record and not relied upon is considered pertinent to applicant's disclosures. Applicant is required under 37 CFR 1.111(c) to consider references fully when responding to this action.

The following are pertinent to current invention, though not relied upon:

Alaia et al. (U.S. Patent No. 6,199,050) teach method of and system for bidding in an electronic auction using flexible bidder-determined line-item guidelines.

Alsberg et al. (U.S. Pub No. 2001/00332162) teach methods and systems for market clearance

Heimermann et al. (U.S. Patent No. 7,110,976) teach centralized, requisition driven, order formulating, e-procurement method using reversed auction.

Jordan (U.S. Pub No. 2002/0069157)) teaches exchange fusion

La Mura et al. (U.S. Patent No. 7,058,602) teach enhanced auction mechanism for online transactions.

Rackson et al. (U.S. Patent No. 6,415,270) multiple auction coordination method and system.

Sandholm (U.S. Patent No. 6,272,473) teaches method, apparatus, and embodied data structures for optimal anytime winner determination in combinatorial auction-type problems.

Sobrado et al. (U.S. Patent No. 6,980,966) teach guided buying in an electronic marketplace environment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bijendra K. Shrestha whose telephone number is (571)270-1374. The examiner can normally be reached on 7:00AM-4:30 PM (Monday-Friday); 2nd Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571)272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bijendra K. Shrestha

Art Unit 3691

ALEXANDER KALINOWSKI
SUPERVISORY PATENT EXAMINER